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Dkt. 40441-C1Z/JPW/AJM/NFM

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5/15/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Walter P. Carney, et al.

Serial No.: 08/321,179 Group Art Unit: 1642

Filed : October 11, 1994 Examiner: J. Hunt

For : DETECTION AND QUANTIFICATION OF NEU RELATED PROTEINS IN THE BIOLOGICAL FLUIDS OF HUMANS

1185 Avenue of the Americas  
New York, New York 10036  
May 2, 2003

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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SIR:

**COMMUNICATION REQUESTING CONSIDERATION  
OF A FIRST SUBMISSION AFTER FINAL REJECTION  
AND WITHDRAWAL OF FINALITY UNDER 37 C.F.R. §1.129(a)  
AND PETITION FOR A TWO-MONTH EXTENSION OF TIME**

This Communication is submitted pursuant to the provisions of 37 C.F.R. §1.129(a) to request (a) withdrawal of finality of the July 5, 2002 Final Office Action issued in connection with the above-identified application and (b) consideration on the merits of the December 5, 2002 Amendment in Response to July 5, 2002 Final Office Action as a First Submission.

On July 5, 2002, the United States Patent and Trademark Office issued a Final Office Action in connection with the above-identified application. A response to the July 5, 2002 Final Office Action was originally due on October 5, 2002. Applicants filed an Amendment in Response to July 5, 2002 Final Office Action and Petition For a Two Month Extension of Time on December 5, 2002.

05/07/2003 SDENBOB1 00000053 08321179

01 FC:1252  
02 FC:1809

410.00 OP  
750.00 OP

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A Notice of Appeal was filed on January 6, 2003 and an appeal brief was due on March 6, 2003. Applicants hereby request a two-month extension of time for filing an appeal brief. The fee for a two-month of extension of time is \$410.00 and under 37 C.F.R. §1.17(r) the fee for filing a submission after final rejection is \$750.00. Applicants enclose a check in the amount of \$1,160.00 to cover these fees. Accordingly, an appeal brief is due May 6, 2003, the subject application is pending, and this Communication is being timely filed.

Applicants hereby request that the Examiner consider on the merits, as a First Submission, the Amendment in Response to July 5, 2002 Final Office Action filed on December 5, 2002, a copy of which is attached hereto as Exhibit A.

Under 37 C.F.R. §1.129(a), in an application that has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 U.S.C. 120, 121 and 365 (c), applicants are entitled to have a First Submission entered and considered on the merits after final rejection if the First Submission and the fee set forth in §1.17(r) are filed prior to the filing of an appeal brief and prior to abandonment of the application.

For its earliest priority date, the subject application claims priority of U.S. Serial No. 06/871,102, filed June 4, 1986, now U.S. Patent No. 4,935,341, issued January 19, 1990. Therefore, taking into account this priority reference, this application has been pending for at least two years as of June 8, 1995. This Communication is being filed prior to the filing of an appeal brief

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and prior to abandonment of the subject application. Accordingly, This Communication satisfies the requests of 37 C.F.R. 1.129(a).

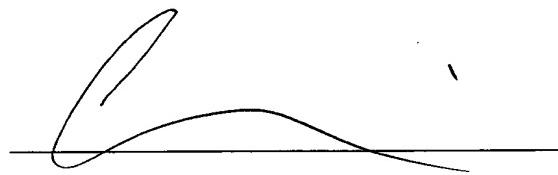
Under 37 C.F.R. §1.129(a), the finality of the final rejection is automatically withdrawn upon the timely filing of the First Submission and the payment of the fee set forth in §1.17(r). Accordingly, applicants understand that, upon receipt of this Communication, the finality of the July 5, 2002 Final Office Action will be withdrawn and the December 5, 2002 Amendment will be considered as a First Submission.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorneys invite the Examiner to telephone them at the number provided below.

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No fee, other than enclosed \$1,160.00, is deemed necessary in connection with the filing of this Communication. However, if any additional fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

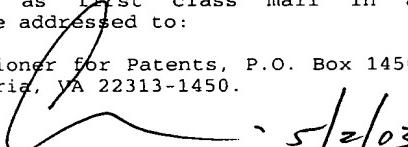
Respectfully submitted,



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5/2/03  
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